



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

1 Dolores S. Neitzel (CONS/PE)
Atty Ratzlaff, Ruth E. (Court Appointed for the Conservatee)
Atty Kruthers, Heather H (for Public Guardian – Conservator)

Case No. 06CEPR00474

(1) Third and Final Account and Report of Successor Conservator and (2) Petition for Allowance of Compensation to Successor Conservator and Attorney and (3) Distribution

DOD: 08/18/2012		PUBLIC GUARDIAN , conservator, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need 13100 Affidavit for Victoria Barbato.
		Account period: 08/10/2011 – 08/18/2012	
		Accounting - \$22,153.31	
		Beginning POH - \$4,691.41	
		Ending POH - \$2,074.21	
Cont. from 020613		Subsequent Account Period: 08/19/2012 - 09/18/2012	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	w/	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	9202 Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		Accounting - \$7,29.45	
		Beginning POH - \$2,074.21	
		Ending POH - \$5,256.57	
		Conservator - \$1,435.16 (10.85 Staff Hours x \$76/hr and 6.36 Deputy Hours x \$96/hr)	
		Attorney - \$1,250.00 (per Local Rule)	
		Bond - \$25 (o.k.)	
		Petitioner prays for an Order:	
		1. Approving, allowing and settling the third account.	
		2. Authorizing the conservator and attorney fees and commissions.	
		3. Payment of the bond fee.	
		4. Authority to distribute the remaining \$763.06 to the following heirs:	
		• Vicki Barbato, surviving daughter - \$207.30	
		• Timothy Neitzel, Grandson - \$555.76	
			Reviewed by: LV
			Reviewed on: 03/14/2013
			Updates:
			Recommendation:
			File 1 - Neitzel

(1) First and Final Account and Report of Insolvent Estate by Successor Administrator; and (2) Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and (3) for Distribution [Prob. C. 9202; 10800; 10810; 10951; 11600]

DOD: 05/05/2006		PUBLIC ADMINISTRATOR , successor administrator, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Declaration filed by Attorney Kruthers states that she and former Attorney for the Estate, Richard Henderson, have agreed to divide the Attorney fees equally however nothing has been filed by Attorney Henderson regarding this agreement. 2. Personal representative, Patricia Greenup, would be entitled to a portion of the statutory fees pursuant to Probate Code §10805 and §10814.
		Account Period 05/18/2012-12/07/2012	
Cont. from 021313		Accounting - \$175,000.00	
	Aff.Sub.Wit.	Beginning - \$175,000.00	
✓	Verified	POH - \$11,512.29	
	Inventory	Administrator - \$2,600.00	
✓	PTC	(Statutory)	
✓	Not.Cred.	X/O - \$1,248.00	
✓	Notice of Hrg	(per Local Rule for sale of real property and preparation of taxes)	
✓	Aff.Mail	Attorney Richard Henderson - \$1,300.00	
	Aff.Pub.	(Statutory)	
	Sp.Ntc.	Attorney - \$1,300.00	
	Pers.Serv.	(Statutory)	
	Conf. Screen	Court Costs - \$25.50	
	Letters 01/02/2007	Bond - \$218.75	
	Duties/Supp	Closing - \$1,500.00	
	Objections	Distribution to:	
	Video Receipt	Patricia Greenup - \$2,509.98	
	CI Report	Daniel Garza - \$375.06	
✓	9202	Petitioner states after only partial payment of the reimbursements for funeral expenses, there is no estate remaining to distribute to the heirs or the State.	
✓	Order		
	Aff. Posting		
	Status Rpt	Petitioner prays for an Order:	
	UCCJEA	1. Approving, allowing and settling the first and final account.	
	Citation	2. Authorizing the administrator and attorney fees and commissions.	
	FTB Notice	3. Payment of Bond fee.	
			Reviewed by: LV
			Reviewed on: 03/14/2013
			Updates:
			Recommendation:
			File 2 - Garza

DOD: 12/21/2005	KAMLJIT K. ASHAT , surviving spouse, was appointed as Administrator with full IAEA authority and without bond on 2/10/2009.	NEEDS/PROBLEMS/COMMENTS: 1. Need Inventory and Appraisal, first account, petition for final distribution or current written status report pursuant to Local Rule 7.5 which states in all matter set for Status Hearing (unless inventory and appraisal <u>and</u> accounting or petition for final distribution has been filed) verified Status Reports must be filed no later than ten (10) days before the hearing and shall be served on all interested parties.
Cont. from 022213	At the time of the filing of the Petition for Probate the estate was estimated to be \$2,761,000.00.	
Aff.Sub.Wit.	The decedent died intestate survived by his spouse and three children, one of which is a minor.	
Verified		
Inventory	Inventory and appraisal was due July 2009.	
PTC		
Not.Cred.	First account or a petition for final distribution was due April of 2010.	
Notice of Hrg		
Aff.Mail	Notice of Status Hearing was mailed to attorney William Cowin on 12/19/2012.	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.	Preliminary Status Report filed on 2/21/13 states but for several lawsuits that arose after the death of the decedent, this probate could have been finalized at an earlier date. With the exception of a parcel of real property located on Blackstone Avenue, all real and personal property assets on the estate are community property. The piece of property on Blackstone was purchased with community funds by the decedent when Mrs. Ashat was temporarily out of the country and title was taken in the name of the decedent temporarily. The above referenced litigation involved a case where Mrs. Ashat and the Estate brought an unlawful detainer action against tenants regarding a portion of the Blackstone property. That case was settled. The second case is a Federal case, case no. 1:121-CV-00224-AWI-SMS styled <i>Delgado v. Abdo Saleh, USA Gas & Grocery and Kamaljit K. Ashat</i> . This issue is a man in a wheel chair who habitually files complaints against businesses whose bathrooms do not meet code standards. The estate attorney is of the opinion that the estate cannot be closed until this Federal case is concluded. The Federal case has finally been resolved and closed in late 2012 and the attorney's office was only recently informed that the Federal case has been concluded. They will now be moving forward with completing a final accounting, transfer of title to Mrs. Ashat and closing this estate.	
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Reviewed by: KT

Reviewed on: 3/14/13

Updates:

Recommendation:

File 3 - Ashat

4A In the Matter of the Verni Family Trust (Trust)**Case No. 10CEPR00639**

Atty Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)

Atty Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole E.; of McCormick Barstow (for Antonietta "Rosa" Verni, daughter and Co-Trustee, and Nicola "Nick" Verni, son and Co-Trustee)

Atty Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son)

Atty Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

Status Hearing

Leonarda DOD: 7/31/2000		<p>CARMELA DeSANTIS, daughter and Trust Beneficiary, filed a <i>Petition to Remove Trustees; Appoint Receiver; Surcharge Trustees; Deny Trustees Compensation; Impose Constructive Trust on Assets; and Cause Proceedings to Trace and Recover Assets</i> on 7/26/2012.</p> <p>NICOLA "NICK" VERNI, son and Successor Trustee of the SURVIVOR'S TRUST, and ANTONIETTA "ROSA" VERNI, daughter and Trustee of the MERGED FAMILY SUB-TRUST, filed a <i>Response to Petition to Remove Trustees, etc.</i> on 9/27/2012.</p> <p>CARMELA DeSANTIS filed a <i>Petition to Construe Trust Provision</i> on 7/26/2012.</p> <p>NICK VERNI and ROSA VERNI filed a <i>Response to Petition to Construe Trust Provision</i> on 9/27/2012.</p> <p>CARMELA DeSANTIS filed a <i>Petition to Establish Claim of Ownership, in Favor of Trust, to Property and for Order Directing its Transfer to the Trustees to Hold in Trust</i> on 8/14/2012.</p> <p>NICK VERNI and ROSA VERNI filed a <i>Response to Petition to Establish Claim of Ownership</i> on 9/27/12.</p> <p>CARMELA DeSANTIS filed <i>Amended Objections to First Account Current of Trustee</i>, and filed <i>Objections to Second Account Current of Trustee</i>, both filed on 7/26/2012.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 2/21/2013. Minute Order states Mr. Marchini informs the Court that they are looking towards bifurcating some of the issues. Mr. Marchini requests a continuance to review documents.</p> <p>Note for background: Minute Order dated 12/5/2012 states Mr. Jaech requests additional time to review the ruling on the court trial that was just issued. Mr. Marchini requests to set the matter for court trial. Matter set for Court Trial on 9/10/2013 with a 15-day estimate.</p> <p>Page 1B is the <i>Petition to Remove Trustees, etc.</i></p> <p>Page 1C is the <i>Petition to Construe Trust Provision.</i></p> <p>Page 1D is the <i>Petition to Establish Claim of Ownership in Favor of Trust to Property, etc.</i></p> <p>1. Need verified Status Report and proof of service of notice of the status hearing pursuant to Local Rule 7.5(B).</p>
Saverio DOD: 5/25/2009			
Cont. from 120512, 010313, 022113			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Status Rep. X		
<input type="checkbox"/>	Notice of Hrg X		
<input type="checkbox"/>	Aff.Mail X		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Reviewed by: LEG
Reviewed on: 3/14/13
Updates:
Recommendation:
File 4A - Verni

Atty Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)

Atty Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole; of McCormick Barstow (for Antonietta "Rosa" Verni, daughter and Co-Trustee, and Nicola "Nick" Verni, son and Co-Trustee)

Atty Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son)

Atty Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

Petition to: (1) Remove Trustees; (2) Appoint Receiver; (3) Surcharge Trustees; (4) Deny Trustees Compensation; (5) Impose Constructive Trust on Assets; and (6) Cause Proceedings to Trace and Recover Assets [Prob. C. 15642, 16420 & 17200]

Leonarda DOD: 7/31/2000	<p>CARMELA DeSANTIS, daughter and Trust Beneficiary, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> The VERNI FAMILY TRUST of 1999 was created by SAVERIO VERNI and LEONARDA VERNI on 6/10/1999, and was amended once by Settlor on the following day, 6/11/1999; Leonarda died on 7/31/2000, thereby causing the Trust to be divided into three sub-trusts: the VERNI MARITAL TRUST, the VERNI FAMILY TRUST, (which was amended once during both Trustors' lifetimes), and the VERNI SURVIVOR'S TRUST (copies of Trusts attached as Exhibit A); following Leonarda's death, Saverio amended the SURVIVOR'S TRUST seven times, with the <i>Eighth Amendment</i> (the final) amending the SURVIVOR'S TRUST in its entirety; Saverio served as sole trustee of the three sub-trusts until his death on 5/25/2009, and upon his death the Marital Sub-Trust terminated and its principal was added to the Family sub-trust, which became the MERGED FAMILY SUB-TRUST; Pursuant to the Trust terms, ANTONIETTA ROSA VERNI, daughter, is first appointed and currently serves as Successor Trustee of the Merged Family Sub-Trust; pursuant to the <i>Eighth Amendment</i> to Trust, NICOLA VERNI, son, is first appointed and currently serves as Successor Trustee of the SURVIVOR'S TRUST; The beneficiaries of each of the Sub-Trusts are the Settlor's five children: ANTONIETTA ROSA VERNI (Rosa), NICOLA VERNI (Nick), LEONARD VERNI (Dino), MARIA STANZIALE, and CARMELA DeSANTIS (Petitioner); and specific distributions from the Survivor's Sub-Trust are to ERLINDA MARCIANO VERNI (\$200,000.00) and ST. ANTHONY OF PADUA CATHOLIC CHURCH (\$200,000.00); Following the death of Saverio and Leonarda, the Merged Family Sub-Trust names Rosa as First Successor Appointee, and Maria as Second Successor Appointee; Eighth Amendment provides that upon Saverio's ceasing to act as trustee, Nick will serve as trustee of the Survivor's Sub-Trust; Petitioner seeks a Court order pursuant to Probate Code § 15642 removing Rosa as trustee of the Merged Family Sub-Trust, and removing Nick as trustee of the Survivor's Sub-Trust; Petitioner also seeks a determination by the Court that Dino is not qualified to serve as next successor trustee of the Survivor's Sub-Trust. 	NEEDS/PROBLEMS/COMMENTS:
Saverio DOD: 5/25/2009		
Cont. from 091112, 100212, 120512, 010313, 022113		
Aff.Sub.W		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		X
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
✓ Pers.Serv.		
Conf. Screen		
Letters		
Duties/S		
Objection		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCC/JEA		
Citation		
FTB Notice		
		<p><u>Continued from 2/21/2013.</u></p> <p>Note: Additional notes pages originally prepared with respect to this petition have been omitted.</p>
		Reviewed by: LEG
		Reviewed on: 3/14/13
		Updates:
		Recommendation
		File 4B - Verni

4C In the Matter of the Verni Family Trust (Trust)

Case No. 10CEPR00639

Atty Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)

Atty Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole; of McCormick Barstow (for Antonietta "Rosa" Verni, daughter and Co-Trustee, and Nicola "Nick" Verni, son and Co-Trustee)

Atty Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son, and Nicola "Nick" Verni, son and Co-Trustee)

Atty Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

Petition to Construe Trust Provision [Prob. C. 17200]

Leonarda DOD: 7/31/2000	<p>CARMELA DeSANTIS, daughter and Trust Beneficiary, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> The VERNI FAMILY TRUST of 1999 was created by SAVERIO VERNI and LEONARDA VERNI on 6/10/1999, and was amended once by Settlor on the following day, 6/11/1999; Leonarda died on 7/31/2000, thereby causing the Trust to be divided into three sub-trusts: the VERNI MARITAL TRUST, the VERNI FAMILY TRUST, (which was amended once during both Trustors' lifetimes), and the VERNI SURVIVOR'S TRUST (copies of Trusts attached as Exhibit A); The instant petition relates to a provision contained in the SURVIVOR'S SUB-TRUST; over Petitioner's objections, Trustees Nick and Rosa have provided a commingled accounting for the Merged Family and Survivor's Sub-Trusts, which fails to segregate each Sub-Trust's assets, liabilities, receipts and disbursements; The failure to appropriately segregate assets, liabilities, receipts and disbursements among the Sub-Trusts prevents the Court, trustee and beneficiaries from determining the size and holdings of the SURVIVOR'S SUB-TRUST; because the SURVIVOR'S SUB-TRUST will be used to fund the above-referenced equalization provision, any appropriate increase in size to that particular Sub-Trust will allow greater realization of the Trustor's intent and will provide a means for effectuating the equalization of prior distributions; conversely, any inappropriate decrease in the size of the SURVIVOR'S SUB-TRUST will undermine the Trustor's intent and deny the Trustee the ability to effectuate an equalization; The Trustee of the SURVIVOR'S SUB-TRUST believes that distributions made during Saverio's lifetime should <u>not</u> be considered for purposes of the equalization process; Petitioner believes this to be contrary to the language of the provision and intent of the Trustor. <p>Petitioner requests a judicial declaration from the Court concerning the proper construction of Subsection 1, of Section B, or Article IV of the SURVIVOR'S SUB-TRUST [refer to copy of Trust or Paragraph 11 of Petition for exact language requiring apportionment of the residue of the trust estate into equal shares for Trustor's living children.]</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 2/21/2013.</u></p> <p><u>Note:</u> Additional notes pages originally prepared with respect to this petition have been omitted.</p>
Saverio DOD: 5/25/2009		
Cont. from 100212, 120512, 010313, 022113		
<input type="checkbox"/> Aff.Sub.W		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg		
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input checked="" type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/S		
<input type="checkbox"/> Objectn		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Post		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notc		
	<p>Reviewed by: LEG</p> <p>Reviewed on: 3/14/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4C – Verni</p>	

4D In the Matter of the Verni Family Trust (Trust)**Case No. 10CEPR00639**

Atty Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)

Atty Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole E.; of McCormick Barstow (for Antonietta "Rosa" Verni, daughter and Co-Trustee, and Nicola "Nick" Verni, son and Co-Trustee)

Atty Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son, and Nicola "Nick" Verni, son and Co-Trustee)

Atty Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

Petition to Establish Claim of Ownership, in Favor of Trust, to Property and for Order Directing its Transfer to the Trustees to Hold in Trust (Prob. C. 850, 17200.1)

Leonarda DOD: 7/31/2000	CARMELA DeSANTIS , daughter and Trust Beneficiary, is Petitioner. <u>Summary of Petitioner's requests for specific relief:</u> 1. Determining the that following is property of the Trust estate: (a) Almond crops: (i) The almond meat inventory on hand at the date of Saverio's death; (ii) all almond crops grown on Trust land since Saverio's death; and (iii) proceeds from the sale of the almond inventory and crops; (b) Olive crops: (i) The olive oil, olive crop and olive inventory on hand at the date of Saverio's death; (ii) all olive crops grown on Trust land since Saverio's death; and (iii) proceeds from the sale of the olive oil, inventory and crops; (c) Other crops (Stone Fruit, Grapes, Etc.): (i) The inventory of other crop grown on Trust land, on hand at the time of Saverio's death but not reported in the Trustee's First Account; (ii) all such crops grown on Trust land since Saverio's death and during 2009; and (iii) proceeds from the sale of the inventory and crops; (d) Other Inventory on Hand: (i) The inventory of firewood and olive oil on hand at the time of Saverio's death but not reported in the Trustee's First Account; (ii) all such items produced from products grown on Trust land since Saverio's death and during 2009; [and (iii) proceeds from the sale of the other inventory;] (e) Proceeds from Sale of Trust Real Property: The money received by Nick and Dino from DeYoung Properties in connection with the option to purchase land and used by DeYoung Properties to actually purchase Trust land which sum is believed to be not less than \$1,000,000.00 ; 2. Directing each of the beneficiaries in possession or holding the property to transfer such property to the Trustees to hold for the benefit of the Trust and the appropriate Sub-Trust(s); 3. Directing each of the beneficiaries in possession or holding any proceeds from the sale or exchange of any of the property to transfer such proceeds to the Trustees to hold for the benefit of the Trust and the appropriate Sub-Trust(s); 4. For judgment in favor of the Trustees of the Trust against any beneficiary who received the Trust property and proceeds, in an amount to be determined and as required to compensate for all of the detriment and damages cause to the Trust; and 5. For treble damages pursuant to Probate Code § 859.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 2/21/2013.</u> Note: Additional notes pages originally prepared with respect to this petition have been omitted.
Saverio DOD: 5/25/2009		Reviewed by: LEG Reviewed on: 3/14/13 Updates: Recommendation: File 4D - Verni
Conf. from 100212, 120512, 010313, 022113		
Aff.Sub.W		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
✓ Pers.Serv.		
Conf. Screen		
Letters		
Duties/S		
Objection		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Post		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

7A
Atty

Dorothy Jean Smith (CONS/PE)
Kruthers, Heather (for Public Guardian/Conservator of the Estate)
Status Re Inventory and Appraisal

Case No. 12CEPR00452

			NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED TO 6-7-12</u> Per Examiner
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W/	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	X	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc
			Reviewed on: 3-14-13
			Updates:
			Recommendation:
			File 7B - Smith

7A

DOD:		CATHERINE A. AMADOR , attorney for Conservators of the Person, MICHAEL H. SMITH and JENNA R. SMITH , is petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 10-25-12, 11-30-12, 1-18-13</u> Minute Order 11-30-12: The Court notes for the minute order that Dorothy Smith passed away. Ms. Kruther informs that Court that she has some objections which she will be discussing with Ms. Amador informally. Ms. Amador requests a partial payment of attorney's fees. The Court indicates to counsel that given the size of the estate, it believes it can grant the request while still honoring Probate Code 2640. The Court grants a partial payment of attorney's fees in the amount of \$7,000.00. Ms. Amador is directed to prepare the order. Continued to 1-18-13. Set on 1-18-13 for Status Hearing Re: Filing of the Inventory and Appraisal. Note: I&As were filed 2-26-13 reflecting a total of \$938,375, including community and separate property. Minute Order 1-18-13: Also present in the courtroom are Ben Smith, Michael Smith, Jr., (Butch) and Youa Her. Matter continued to 3-22-13. <u>The following issues remain:</u> SEE PAGE 2 Reviewed by: KT / skc Reviewed on: 3-13-13 Updates: Recommendation: File 7B - Smith
Cont. from 102512, 011813			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail W/		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order X		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

MICHAEL H. SMITH and **JENNA R. SMITH** were appointed Conservators of the person and the **PUBLIC GUARDIAN** was appointed as Conservator of the estate on 7/12/12.

Petitioner states she represented Michael H. Smith and Jenna R. Smith in their petition to be appointed conservator of the person and estate of Dorothy Jean Smith.

Objections were filed by the Conservatee's husband, Benjamin Smith and their grandson, Michael H. Smith, Jr. (Butch).

At the hearing, the parties agreed to the appointment of Michael and Jenna as conservators of the person and the Public Guardian as conservator of the estate.

Petitioner states she spent 58.9 hours at \$265.00 per hour on this matter for a total of **\$13,894.50**.

In addition, Petitioner requests reimbursement of costs totaling **\$632.00** and **\$277.89** in administrative expenses.

Supplement filed 1-14-13 states billed fees and costs were \$7453 + \$552, and the Court has already ordered payment of \$7000 against those fees and costs. Petitioner requests the balance of \$975 be approved at this time.

Petitioner has worked an additional 33.1 hours on this matter since the petition was granted and billed fees in the amount of \$8,771.50. The majority of that time was spent collecting and providing information about the estate to the Public Guardian and County Counsel in an effort to allow them to complete the I&A (described). In addition, Petitioner anticipates incurrent fees of approx. 1 hour to make the appearance on this request.

Petitioner requests the Court approve this petition and direct the payment of \$9,746.50 from Conservator's estate to Pascuzzi, Moore & Stoker.

NEEDS/PROBLEMS/COMMENTS:

1. Probate Code 2640 states that a request for attorney fees can be filed at any time after the filing of the inventory and appraisal, but not before 90 the expiration of 90 days from the issuance of letters or at any time the court for good cause orders. This petition was filed prior to I&A.

Update: I&A has now been filed.

2. Costs include Court runner fees totaling \$80.00. Local Rule 7.17B states runner services are considered by the court to be a part of the cost of doing business and are not reimbursable costs or fees.
3. Petition requests the reimbursement of administrative expenses without stating what the administrative expenses are.
4. The itemization of the attorney's fees includes several entries after the appointment of the Public Guardian as conservator of the estate that appear to be for issues involving the estate. It appears that charges involving the estate are beyond what should have been charged by the attorney for the conservator of the person.
5. Need Order.
6. Pursuant to the Supplement filed 1-14-13, it appears that Attorney Amador is requesting an additional \$8,771.50 in fees, copies served by mail on 1-11-13, which is 7 days before the continued hearing on the prior petition.

The Court may require continuance for appropriate service of this request.

7. Also pursuant to the Supplement, need clarification. The supplement appeared to indicate that the original amount requested was \$7453 + \$552 in costs, which totals \$8005.

However, the original petition requested \$13894.50 + \$632 + 277.89 (total \$14,804.39).

According to the Supplement, Petitioner is only requesting the new amount \$8771.50 plus \$975 left unpaid from previously.

Need clarification on the amount requested.

Age: 74		<p>VANCE SEVERIN and TERRI SEVERIN, Brother and Sister of Mr. Salzman's wife, Stacy Salzman, were appointed as Temporary Co-Conservators of the Person and Estate without bond (bond upon permanent appointment) on 9-25-12.</p> <p>At a hearing on 11-5-12, the Court set this status hearing for the filing of the I&A.</p> <p>On 12-10-12, The Temporary Co-Conservators were authorized to sell the Conservatee's real property, with proceeds to be deposited into a blocked account.</p> <p>At hearing on 1-7-13, the petition for conservatorship of the <u>person</u> was withdrawn, and the conservatorship of the <u>estate</u> was extended to 3-29-13, but limited to the sale of the property and negotiate and settle with the Conservatee's creditors, including California Franchise Tax Board and IRS.</p> <p>The Court set a status hearing on 3-29-13 for filing of the First or Final Account of Temporary Conservator.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need receipt for blocked account (sale proceeds) 2. Need I&A. 3. Need status of the conservatorship estate at this time. Has the house sold? Have the debts been settled? <p><u>Note:</u> An additional upcoming status hearing is set for 3-29-13 for the filing of an account.</p>		
Aff.Sub.Wit.					
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		Reviewed by: skc			
		Reviewed on: 3-14-13			
		Updates:			
		Recommendation:			
		File 8 - Salzman			

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

Status Conference

Frank DOD: 8/15/2006		<p>BARBARA L. PEARSON, Trustor's daughter, Trust Beneficiary and Successor Trustee of the LABREE FAMILY TRUST dated 4/13/1981, filed on 10/5/2012 a Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust, which was set for hearing on 11/29/2012.</p> <p>TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 Objections to the Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust, alleging self-dealing and breach of fiduciary duties by the Trustee.</p> <p>Minute Order dated 11/29/2012 from the hearing on the petition and the objections set a status conference on 1/18/2013.</p> <p>Status Report by Objector, Tracy I. Spreier, filed 3/12/2013 states:</p> <ul style="list-style-type: none"> In Response to Objector Tracy Spreier's Objection, Petitioner Barbara Pearson provided some information on an informal basis to resolve some of the issues raised by the Objection; However, several issues remain to be resolved at this time, including (1) whether a certain ring is appropriately included in the accounting, regardless of what its actual value may be; (2) whether the payment of certain appraisal fees can be included in the accounting; and (3) the failure to state the appraised date of death value for certain real property owned by the Trust; and (4) certain expenses improperly paid from the Trust's funds. <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 9B is the <i>Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust</i>.</p> <p>Page 11 is the related matter of the <i>Frank H. Labree Irrevocable Trust</i> (12CEPR00893.)</p> <p>Continued from 1/18/2013. Minute Order states Mr. Werner is appearing via conference call. Ms. Burnside informs the Court that a majority of the objections to the accounting have been worked out, but additional time is needed to do some discovery. Matter continued to 3/22/2013. Counsel is directed to submit a joint status report. The Court indicates to both counsel that notice can be waived for purposes of the status report.</p>
Roberta DOD: 3/25/2012			
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Citation			
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		<p>Reviewed by: LEG</p> <p>Reviewed on: 3/15/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9A - LaBree</p>	

Status Report by Objector filed 3/12/2013, continued:

- Written discovery in the form of a request for production of documents, requests for admissions, special interrogatories, and form interrogatories, were propounded by Objector to the Petitioner on 3/6/2013;
- Although the attorney for Petitioner previously indicated a need to depose a potential witness in Arizona in regard to the issue pertaining to the ring, it is Objector's contention that any facts known by the potential witness in Arizona are irrelevant to the determination of whether the ring is even properly included within the accounting;
- It is unknown at this time as to whether the Objection to the accounting and the Trustee's request for the Court's approval of her actions can be resolved through settlement or one of the various forms of ADR; at this time, Objector is waiting for responses to the discovery that has been propounded to make a determination as to the best way in which to proceed with regard to the issues;
- Other related cases before the Court are as follows:
 - Frank H. LaBree Exemption Trust (12CEPR00892) – Accounting was approved [on 11/29/2012], but a petition may need to be filed for an order for the distribution of the Trust's assets;
 - Frank H. LaBree Irrevocable Trust (12CEPR00893) – An Objection is pending to the Account in this matter;
 - The LaBree Irrevocable Trust (12CEPR00894) – Account was approved [on 11/29/2012], but a petition may need to be filed for an order for the distribution of the Trust's assets;
- There is also a Riverside County related case entitled *Barbara Pearson, Successor trustee of the LaBree Family Trust v. Tracy I. Spreier and Cal-Duct, Inc.* (RIC 1213819) – the Plaintiff's first amended complaint was filed on 3/2/2013, following the sustaining of the demurrer to the original complaint that was filed; that action generally alleges, among other things, that Tracy Spreier is the beneficiary of an agreement entered into by Roberta LaBree, the previous Trustee of the LaBree Family Trust, and that because of her medical condition, Mrs. LaBree was extremely susceptible to undue influence; that action seeks a variety of remedies, including rescission of the agreement and damages;
- It is expected that the attorneys for the parties will meet and confer after the discovery propounded by Objector in this particular matter is responded to in order to determine whether the matter can be resolved by agreement, or whether the issues will have to be decided by the Court.

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust; and Approval of Trustee Fees [Cal. Prob. C. 1064(a), 17200, 17200(b)(5), CRC., Rule 7.902]

Frank DOD: 8/15/2006		BARBARA L. PEARSON , Trustors' daughter, Trust Beneficiary and Successor Trustee of the LABREE FAMILY TRUST , is Petitioner. Account period: 3/25/2011 – 2/29/2012 Accounting - \$1,735,662.68 Beginning POH - \$1,627,499.40 Ending POH - \$1,563,236.09 (\$1,899,065.77 is cash; cash balance exceeds ending property on hand balance due to negative \$518,182.00 amount held in constructive trust by Trustee for the benefit of the Frank H. LaBree Exemption Trust.) Trustee - \$25,066.50 (per Declaration filed 11/14/2012 containing itemization for 294.90 hours @ \$85.00/hour. NOTE: Trustee has previously been paid compensation of \$14,302.50 (not itemized) from the Trust for this account period without court order per Trust terms entitling Trustee to reasonable compensation for services rendered as Trustee;) Attorney - \$53,312.30 (paid) (to Dowling Aaron & Keeler/Dowling Aaron, as listed in Disbursements schedule; not itemized other than for legal fees) Accountant - \$1,405.00 (paid) (to Erickson & Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson & Assoc.) Petitioner states: • ROBERTA LABREE and FRANK H. LABREE, Jr. , created the LABREE FAMILY TRUST on 4/13/1981, as amended on 5/2/1984, and as amended in full on 12/20/1991, and were the original co-trustees until Frank's death on 8/15/2006, when Roberta became the sole Trustee, and the Trust served as the Survivor's Trust for Roberta; ~Please see additional page~	NEEDS/PROBLEMS/COMMENTS: Continued from 11/29/2012. Minute Order states Mr. Werner is appearing via conference call. Matter continued to 3/22/2013. 1. Need proposed order.	
Roberta DOD: 3/25/2012				
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✓	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	X		
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	Citation			
	FTB Notice			

Petitioner states, continued:

- Upon Roberta's death on 3/25/2012, Petitioner Barbara L. Pearson became and is currently the Successor Trustee; (copy of Second Amendment to Declaration of Trust attached as Exhibit A);
- Pursuant to probate Code § 17200, the Trustee is requesting Court review of the first account and of the acts of the Trustee, and submits her first account and report of administration of the Trust for settlement and allowance;
- During the period of administration of this account, Petitioner discovered excess income distributions totaling **\$60,756.82** were made in 2008, 2009 and 2010 to Roberta LaBree by the **FRANK H. LEBREE EXEMPTION TRUST**, of which Roberta was the sole beneficiary during her lifetime; this amount was paid to the LaBree Family Trust; at Roberta's death, income owed to her from the Exemption Trust for 2011 was **\$3,427.00**, which when applied to the 2011 amount owed for excess distributions leaves a balance owing of **\$57,329.82**; (please refer to Schedule J of the account); the full amount owed by the Family Trust of **\$57,329.82** has been paid to the Exemption Trust and will be reflected in the next account;
- During the period of administration of this account, Petitioner discovered the Family Trust had underfunded the Exemption Trust by **\$500,000.00**, which accrued interest of **\$18,182.00**, and the full amount of **\$518,182.00** has been paid to the Exemption Trust and will be reflected in the next account.

Petitioner prays for an Order:

1. Settling and allowing the First Account and Report of the Trustee, and ratifying, confirming and approving all acts and transactions of the Petitioner as Trustee;
2. Ratifying and approving the Trustee's fees of **\$14,302.50** already paid from the Trust;
3. Authorizing payment of **\$25,066.50** to the Trustee for services rendered through 2/29/2012; and
4. Ratifying and approving the Attorney's fees of **\$53,312.30** already paid from the Trust.

Objections to Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust; and Approval of Trustees Fees; Request for Attorneys' Fees Pursuant to Probate Code § 17211(b) filed 11/16/2012 by TRACY SPREIER, Trustors' daughter and Trust Beneficiary, states she objects to the account filed by Barbara Person on the following grounds:

- **Accounting includes an incredibly inflated and false appraisal for a faux diamond ring that was not a part of the family trust during a time of the account period:**
 - In December 2010, Trustor Roberta gifted a ring to Objector; when Roberta died on 3/25/2011, the gift of the ring had already been made at least three months before; accordingly, the ring was not a part of the Family Trust's assets on 3/25/2011, Roberta's date of death; 3/25/2011 is also the beginning date for the First Account;
 - The First Account states the value of the ring as of 3/25/2011 was **\$26,000.00**, shown on [Schedule G, Distributions in an entry dated 3/25/2011] for a distribution to Tracy Spreier of a diamond ring; this statement is false (contrary to Trustee's verification of the accounting), as the ring had already been given to the Objector as a gift by her mother;
 - As the entry pertaining to the ring is incorrect, the corresponding entry regarding the Trust's ownership of a diamond ring and other jewelry worth a total of **\$35,216.00** is also false;

~Please see additional page~

Tracy Spreier's Objections to Petition for Settlement of First Account filed 11/16/2012, continued:

Accounting includes an incredibly inflated and false appraisal for a faux diamond ring, continued:

- Successor Trustee also materially misrepresents the value of the ring that was gifted to Objector by her mother in December 2010; accounting makes reference to an appraisal obtained for a ring and include an entry of **\$100.00** paid to have ring appraised, and Objector asserts that the ring appraised, if any ring was actually appraised, is not the same ring given to her by her mother in December 2010 which Successor Trustee alleges was distributed to Objector on 3/25/2011; the reason for this is that Objector has been in possession of the ring ever since her mother gave it to her in December 2010, thus to the extent that any appraisal was prepared at Successor Trustee's request, the appraisal was either a totally fictitious appraisal or was based upon a ring other than the one give to Objector by her mother;
- Objector took the ring her mother had given to her in December 2010 to a Certified Gemologist Appraiser to obtain a professional appraisal of the ring's value, and the appraiser's conclusion is that the stones in the ring are cubic zirconium set in a sterling silver cast and die-struck ring with a value of **\$60.00** (please refer to copy of appraisal attached as Exhibit A);
- Objector believes that **TARA AHEARNE**, who was paid \$100.00 by Successor Trustee to state that the value of the ring given to Objector by her mother was worth **\$26,000.00**, is a friend of Successor Trustee's daughter; it can only be inferred that her appraisal was based solely on whatever was told to her by the Successor Trustee, as the appraisal could not have been based on an actual inspection of the ring in order to determine its attributes or value, as Objector was never asked to produce the ring for any inspection or appraisal, and never did so; no communication was ever made by the Successor Trustee to the Objector at any time about the ring;
- Because the ring appraisal obtained by the Successor Trustee was false and deceitful, she should be ordered to reimburse the Family Trust the **\$100.00** cost of the appraisal.
- **The Trustee paid for an appraisal of real property not owned by the Trust:**
 - *Schedule E, Disbursements* shoes an entry for an appraisal by **DIANA A. GARDA** of **\$1,077.00** for an appraisal of the South El Monte property; the real property owned by the Trust listed on *Schedule A Property on Hand* [at beginning of account period] shows only real property owned by Family Trust is Trustor's home in Bullhead Arizona and two timeshare interests; as there is no explanation given for an appraisal to be obtained by the Family Trust for the South El Monte property, the Successor Trustee should be ordered to reimburse the Family Trust **\$1,077.00** for that expenditure; South El Monte property is commercial property that was owned by the Family Trust and was gifted by their mother to Objector and her two sisters in 2010 to a partnership they owned.
- **The Court should not approve the reimbursement made to the Successor Trustee for the cost of an appraisal that was never used.**
- **The Court should not approve the Successor Trustee's action of selling the Family Trust's tax-free bond and certificate of deposit investments, then depositing the cash into extremely low interest-bearing bank accounts instead of distributing the assets to the beneficiaries.**
- **The Court should require the Successor Trustee's report to explain why its cash assets of over \$1.5 million are not being distributed.**

~Please see additional page~

Tracy Spreier's Objections to Petition for Settlement of First Account filed 11/16/2012, continued:

- The Court should instruct the Successor Trustee to adhere to her fiduciary duty to deal impartially with the beneficiaries.
- Funeral costs are not an allowable expense under the terms of the Family Trust and should not be approved by the Court in light of the fact that the Trustor had a prepaid cremation and memorial plan.
- Family photograph reprints are not a trust expense that can be approved by the Court.
- The travel costs and other expenses purportedly related to the sale of the Trustor's residence and which were incurred by Successor Trustee's relatives are not allowable Trust expenses.
- The Successor Trustee's fee request should not be granted as it is not supported by any time records for the work done by her, and the accounting does not reflect the amount that the report states has already been paid to her by the Trust.
- The Court cannot ratify the amounts paid by the Successor Trustee to her attorneys for legal fees as they are not supported by any time records that show any justification for the amounts paid.
- The Court should award Objector her attorney's fees with regard to the objection to the accounting.
- **One of the named beneficiaries in the Trust, SEAN WOODS, was not given notice of the petition.** *[Note: Waiver of Notice on Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust signed by Sean Woods was filed on 11/21/2012.]*

Objector requests:

1. That Barbara Pearson as Successor Trustee be ordered to amend and correct the accounting for the Family Trust to delete the faux diamond ring as an asset of the Family Trust, and to make all other entries to the accounting that are necessary as a result of that correction, without any cost to the Family Trust;
2. That Barbara Pearson be ordered to pay the amount of **\$100.00** to the Family Trust as reimbursement for the false appraisal that was obtained for the faux diamond ring that was not even a Family Trust asset at the time that she became Successor Trustee;
3. That Barbara Pearson be ordered to pay the Family Trust the amount of **\$1,077.00** for the appraisal by Diana A. Garda of the South El Monte property that was not property of the Family Trust at the time that appraisal was obtained;
4. That Barbara Pearson be ordered to correct the accounting to reflect the value of the Trustor's residence at the time of the death, as determined by the appraisal prepared by Larry Stewart, and make all other entries in the accounting necessary to correct the accounting with regard to the sale of the residence, without any cost to the Family Trust, and that Barbara Pearson be ordered to pay the Family Trust **\$375.00**;
5. That Barbara Pearson be ordered to distribute all assets of the Family Trust among the three remaining beneficiaries of the Family Trust, except for any funds reasonably anticipated to be needed for future expenses and liabilities, and for the prudent investment of those funds in interest-bearing bonds;

~Please see additional page~

Tracy Spreier's Objections to Petition for Settlement of First Account filed 11/16/2012, continued:

6. That Barbara Pearson be ordered to deal impartially with each of the Family Trust's beneficiaries and ordered that any future distributions to the three remaining beneficiaries of the Family Trust are to be in equal amounts to each of the three beneficiaries unless otherwise ordered by the Court, and that the Successor Trustee not reimburse any beneficiary or herself any costs or expenses unless and until first order by the Court;
7. That the Successor Trustee pay the Family Trust the amount of **\$1,537.06** that she improperly paid from the Family Trust for "funeral expenses;"
8. That the Successor Trustee pay the Family Trust the amount of **\$42.86** to reimburse it for the amount she improperly paid from the Family Trust for "family photograph reprints;"
9. That the Successor Trustee pay the Family Trust the amount of **\$6,899.08** to reimburse it for the amount of improper expenses paid by the Family Trust for travel and meal expenses of the beneficiaries to whom the Trustor's personal property was being distributed;
10. That the Successor Trustee's request for the ratification of the fees paid to her for her services as the Successor Trustee and the request for payment of additional fees be denied because of the lack of any entry in the accounting showing when the amount paid to the Successor Trustee for her services was actually paid, and because of lack of any evidence showing that the amount paid and the amount requested be paid is reasonable;
11. That the Successor Trustees' request for ratification of her act of paying Dowling Aaron & Keeler and Dowling Aaron the amount of **\$53,312.30** be denied because of lack of evidence showing that the payment of that amount was reasonable; and
12. That the Court award Objector the amount of her attorney's fees and costs, according to proof, pursuant to Probate Code § 17203 and against the Successor Trustee, Barbara Pearson, and that the award be paid to Objector as a charge against Successor Trustee's compensation or other interest she has in the Family Trust.

Reply to Objections to Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust filed 11/26/2012 by Barbara Pearson, Successor Trustee, states:

- The ring, which does have an appraised value of \$26,000.00, was taken by Objector as a preliminary distribution of the Trust estate, and is properly included in the accounting to explain equalizing distributions required to other Trust beneficiaries.
- The appraisal of the South El Monte property was a proper Trust expense.
- The appraisal fee of \$375.00 was a proper Trust expense.
- The sale of the tax-free bond was appropriate and within the Trustee's discretion.
- The Trustee's lack of Trust distributions during the accounting period was appropriate and within her discretion.
- If the Court orders the Trustee to adhere to her fiduciary duty to deal impartially with Trust beneficiaries, as requested by Objector, Objector will lose \$42,748.00.
- Funeral costs are allowable expenses, and travel and meals are commonly covered estate administration expenses.
- Copies of family photographs were proper trust expenses.

~Please see additional page~

Successor Trustee's Reply to Objections filed 11/26/2012, continued:

- Travel costs related to the sale of the residence were proper Trust expenses.
- Documentation regarding Trustees fees has not been provided to Objector and to the Court. [Declaration filed 11/14/2012.]
- A separate attorney fee declaration will be submitted prior to the hearing.
- The Court should deny Objector's request for attorney fees for the objection. There is no adjudication that the Trustee's defense of the accounting is frivolous; therefore, Objector's attorney is not entitled to fees.
- M. Sean Woods filed a Waiver of Notice for the Hearing [on 11/21/2012.]

Petitioner Barbara Pearson requests the Court deny Objector Tracy Sprier's objection and grant the petition.

Declaration of Steven Matlack in Support of Request for Ratification of Attorney's Fees filed 12/14/2012 sets forth attorney and paralegal qualifications, scope of the representation detailing the complex issues, and a copy of the firm's time entries containing the vast majority of entries, with certain privilege-protected entries redacted (itemized on Exhibit B); the services performed from 3/25/2011 through 2/29/2012 involved expenditure of 148.40 hours of attorney time and 85.40 hours of paralegal time, for a total fee of **\$53,173.00**.

Second Declaration of Barbara L. Pearson in Support of Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust; and Approval of Trustee Fees filed 1/15/2013 states she paid herself **\$14,302.50** from the Trust assets for trustee services rendered by her during the account period without prior court order pursuant to the terms of the Trust; the services related specifically to accounting and tax preparation work (itemized on Exhibit A.)

**Petition to Determine Administrative Expenses Allocable to Encumbered Property
Prior to Satisfaction of Lien, and for Deposit of Purchase Money With Court in
Satisfaction of Lien and Expenses [Prob. C. 10360, et seq.]**

DOD: 7-13-12		<p>SUSIE S. VERDUZCO-SAMANC, Daughter and Executor with Full IAEA without bond, is Petitioner.</p> <p>One of the assets of the estate is real property located at 5230 E. Belmont Ave. in Fresno (valued at \$120,000.00). Petitioner has entered into an agreement for a "short sale" of the property for \$120,000.00; however, the outstanding loan balance is greater than this amount. The lender scheduled a foreclosure sale on 12-12-12, which Petitioner expects will be postponed. Whether the property is sold via short sale or at foreclosure, Petitioner seeks an order determining the amount of expenses of administration that are reasonably related to the administration of the encumbered property as provide for by Probate Code § 10361.5.</p> <p>Petitioner states the expenses of sale are \$24,399.01, as set forth on Exhibit D, which include commissions, escrow charges, fees and taxes, including unpaid property taxes and penalties. Petitioner will incur additional charges in serving notice of hearing on this petition and may incur additional attorney fees for appearing at this hearing that will be presented in a supplement prior to hearing.</p> <p>Petitioner requests that the court order on approval of this petition that the purchase money be paid to the clerk of the court to be disbursed as provided for by Probate Code § 10362. In the alternative, Petitioner requests an order requiring the lender or other holder of the funds to pay over to Petitioner the expenses and fees of which the estate is otherwise entitled to pursuant to this petition and pursuant to the Probate Code.</p> <p align="center"><u>SEE ADDITIONAL PAGES</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 1-31-13</u></p> <p>Minute Order 1-31-13: The Court notes for the minute order that the hour is 9:15 a.m. and Alisa Givental is not present via CourtCall as scheduled. The Court sets a Status Conference for 3/22/13. The Court directs the parties to provide chambers copies of any documents filed. Continued to 3/22/13 at 9:00am in Dept. 303. Set on 3/22/13 at 9:00am in Dept. 303 for Status Conference.</p> <p>1. The petition is not signed by Attorney Markeson.</p>	
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Page 2

Petitioner prays for the following:

- 1) That the court determine the expenses of administration reasonably related to the administration of the encumbered property;
- 2) That the court determine expenses of sale of said property;
- 3) That the court order proceeds from the sale to be paid to the clerk of the court or to the escrow holder, or to petitioner;
- 4) That the court order that upon such payment the lien on the property be discharged;
- 5) That the clerk of the court or escrow holder or Petitioner be ordered to pay and disburse the proceeds of the sale requested in this petition or as otherwise ordered by this court; and
- 6) For such other and further orders as the court deems appropriate.

Objector Green Tree Mortgage Servicing, LLC states none of the expenses at issue were reasonably related to the administration of the property, and even if they were, such expenses are properly recoverable only from the assets of the estate, not from proceeds of a foreclosure sale conducted by Green Tree. Objector requests the petition be denied.

Objector provides a statement of relevant facts and legal argument, including authority:

- **Applicable sections of the Probate Code:** Not all recoverable expenses will take priority over a secured obligation.
- **Petitioner is not entitled to expenses associated with a short sale because no short sale took place:** See Request for Judicial Notice re Trustee's Deed Upon Sale. Therefore, Petitioner's plea for \$9,205.01 as reimbursement for sale expenses should be denied.
- **Ordinary compensation does not take priority over a lien:** Petitioner seeks to recover \$9,200.00 in ordinary compensation, but does not provide any support for the notion that ordinary compensation can be paid out piece-meal as certain assets, or in this case liabilities, of an estate are liquidated. That petitioner can seek an "allowance" before approval of the final account does not change the fact that such allowance is only payable from the assets of the estate. Even if it were appropriate for the court to consider this request to receive a portion of ordinary compensation from the proceeds of the foreclosure sale, Petitioner does not provide any support for the prerequisite proposition that the ordinary compensation requested is in payment for the expenses **reasonably related** to the property sold. That Petitioner's calculation is based on a percentage of the value does not establish that this amount is "reasonably related" to the administration of the property. To the contrary, the very fact that ordinary compensation is not discretionary but formulaic demonstrates that it is impossible for the court or petitioner to establish "reasonably related" element that is a prerequisite to any administration expenses taking priority over the secured obligation.

Since there is no legal basis for determining whether the ordinary expenses is "reasonably related" to the administration of the property, there is also no basis for awarding such compensation from the proceeds of a foreclosure sale. Petitioner should seek recovery from the assets of the estate when the estate has been fully "accounted for by [her -] the personal representative." (Probate Code §10800(a)).

SEE ADDITIONAL PAGES

- **Extraordinary expenses cannot take priority over a lien if they do not benefit the estate:** \$2,000.00 in extraordinary fees and costs of \$435 for filing this petition should be denied for several reasons. Extraordinary compensation is paid from the assets of the estate, not proceeds of a foreclosure sale by a third party. The request should be denied on this ground alone. Second, Petitioner relies on local rule, which permits extraordinary fees for attorneys without further justification for "court-confirmed sales of real property." Surely the local rules exception to the Cal. Rules of Court is not intended as a loophole to compensation both Petitioner and attorney for a sale conducted by a third party and then recover that compensation from the third party. To the extent that Petitioner contends that her attempts to negotiate a short sale that never occurred warrant the extraordinary compensation from the proceeds of the foreclosure sale that took place instead, the argument should be rejected because there is no benefit to the estate for a short sale if it should have been clear to Petitioner from the beginning that the estate could not gain assets as a result of either.
- **The remaining expenses were not necessary:** \$207 for appraisal, \$2000 for "post death" trash pickup, \$303 for "post death" water, \$220 for "post death" PG&E, and \$129 for "post death" City of Fresno should be denied because Petitioner fails to present any explanation for the notion that any of these expenses were "necessary." Only necessary expenses are recoverable. It is unclear why a property that was about to be sold at a foreclosure sale was generating trash, water and electricity bills. Petitioner provides no authority why these should be recoverable from the sale rather than the assets of the estate; therefore, it is unclear why these are either necessary or reasonably related to the administration of the property.

Objector's Request for Judicial Notice references the following recorded documents:

- The Corporate Assignment of Deed of Trust recorded 7-17-12 in the official records of Fresno County as instrument number 2012-0099188
- The Trustee's Deed Upon Sale, recorded 12-28-12 in the official records of Fresno County as instrument number 2012-0187908

Petitioner's Response filed 1-30-13 states:

- Green Tree omits one important fact: Even before Petitioner's appointment as Administrator on 10-24-12, Petitioner began the process for a short sale of the property. Those efforts continued after appointment and resulted in a contract of sale. Everything was in place for escrow to close on 12-13-12, but for Green Tree's acceptance of the contract. Instead, Green Tree, without notice to Petitioner or to the potential buyer, proceeded with its foreclosure and sold the property to another buyer. Green Tree now wishes to avoid its responsibility to pay expenses of administration relating to the property.
- The issue is what expenses of administration are reasonably related to 5230 E. Belmont Ave that have priority over Green Tree's lien and should be paid from the proceeds received from sale under 10631 and 11420.

SEE ADDITIONAL PAGES

Page 4

- Ordinary compensation does take priority over the deed of trust. Cites provided. Objector focuses on Rule 7.701 regarding payment of fees pursuant to court order. Petitioner is not requesting payment at this time; only determination and payment to the estate. Regardless, in an attempt to satisfy Rule 7.701, Petitioner provides an estimate of the statutory compensation payable in this estate. See Response.
- Ordinary services performed to date include petition, publication, I&A, handling debts, etc. Additional work is required in this estate, however, all effort associated with this property has been completed.
- Objector argues that the fact ordinary fees are pursuant to a formula makes it impossible to establish the fees reasonably related to the property in question is belied by the fact that Petitioner is only asking for ordinary expenses in the form of ordinary fees based on the property only.
- Extraordinary fee request of \$2,500 plus filing fee for research, review, preparation of this petition, and court appearance. Rule 7.703 list a number of examples of extraordinary nature. Cal. Decedent Estates Practice states services for which extraordinary fees may be claimed include litigation regarding collection of funds, sale of real property, and defenses of fee requests. CEB §20.29. It would not appear that the petition at hand would be classified as ordinary, rather that it would be included as activity associated with the sale of the property, litigation undertaken to benefit the estate, and litigation/defense in support of a request for extraordinary fees.
- Petitioner maintains her request for \$1,000.00 for fees relating to herself. Local Rule 7.18 provides for fees to the personal representative without restriction.
- Petitioner withdraws the request for \$1,000.00 to the attorney inasmuch as the rule allows for such payment only on court – confirmed sales.
- Appraisal and utilities are appropriate in that in negotiations for short sale the property required maintenance, including garbage and PG&E. This also maintained the illusion that the property was occupied for security purposes. These expenses were directly related to the property and helped maintain its value.
- The Law Revision Commission Comments of Section 11004 state the section permits expenses such as gardening, pool maintenance and maintenance pending sale. The expenses requested fit within such examples and are directly related to the property at hand and should be included in any order of the court.
- Petitioner agrees that the real estate commissions of \$7,200 are inappropriate because no commission was payable. However, the other expenses requested would have been paid from escrow from the proceeds. See Exhibit A to moving papers. Petitioner is willing to withdraw the request for expenses requested and instead request an order of the court that requires Green Tree to pay all settlement costs, according to proof, paid from proceeds from the sale. In the alternative, Petitioner requests the Court determine all sales expenses except the commissions are reasonably related to the property in question.

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

Status Conference

Frank DOD: 8/15/2006	BARBARA L. PEARSON, Trustor's daughter, Trust Beneficiary and Successor Trustee of the FRANK H. LABREE IRREVOCABLE TRUST , filed on 10/5/2012 a Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust , which was set for hearing on 11/29/2012.	NEEDS/PROBLEMS/COMMENTS:
Roberta DOD: 3/25/2012		
Cont. from 011813		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
✓ Status Rep	TRACY SPREIER, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an Objection to the Petition for Settlement of First Account and Report of Trustee , alleging self-dealing and breach of fiduciary duties by the Trustee.	<p>Page 11B is the <i>Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust</i>.</p> <p>Continued from 1/18/2013. Minute Order states Mr. Werner is appearing via conference call. Ms. Burnside informs the Court that a majority of the objections to the accounting have been worked out, but additional time is needed to do some discovery. Matter continued to 3/22/2013. Counsel is directed to submit a joint status report. The Court indicates to both counsel that notice can be waived for purposes of the status report.</p>
Notice of Hrg		
✓ Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<p>Minute Order dated 11/29/2012 from the hearing on the petition and the objections set this status conference on 1/18/2013.</p> <p>Status Report by Objector, Tracy I. Spreier, filed 3/12/2013 states:</p> <ul style="list-style-type: none"> In Response to Objector Tracy Spreier's Objection, Petitioner Barbara Pearson provided some information on an informal basis to resolve two of the three issues raised by the Objection; The third issue, apparent self-dealing by the Trustee by modifying the interest rate of two different promissory notes owed to the Trust, remains to be resolved at this time; Written discovery in the form of a request for production of documents, requests for admissions, special interrogatories, and form interrogatories, were propounded by Objector to the Petitioner on 3/6/2013; It is not anticipated that Petitioner has a need or expects to conduct discovery with regard to the matter; <p>~Please see additional page~</p>	
		<p>Reviewed by: LEG</p> <p>Reviewed on: 3/14/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11A - LaBree</p>

Status Report by Objector filed 3/12/2013, continued:

- It is unknown at this time as to whether the Objection to the accounting and the Trustee's request for the Court's approval of her actions can be resolved through settlement or one of the various forms of ADR; at this time, Objector is waiting for responses to the discovery that has been propounded to make a determination as to whether there are indeed any defenses to the apparent self-dealing;
- Other related cases before the Court are as follows:
 - The LaBree Family Trust (12CEPR00628) – An Objection is pending to the Account in this matter;
 - Frank H. LaBree Exemption Trust (12CEPR00892) – Accounting was approved [on 11/29/2012], but a petition may need to be filed for an order for the distribution of the Trust's assets;
 - The LaBree Irrevocable Trust (12CEPR00894) – Account was approved [on 11/29/2012], but a petition may need to be filed for an order for the distribution of the Trust's assets;
- There is also a Riverside County related case entitled *Barbara Pearson, Successor trustee of the LaBree Family Trust v. Tracy I. Spreier and Cal-Duct, Inc.* (RIC 1213819) – the Plaintiff's first amended complaint was filed on 3/2/2013, following the sustaining of the demurrer to the original complaint that was filed; that action generally alleges, among other things, that Tracy Spreier is the beneficiary of an agreement entered into by Roberta LaBree, the previous Trustee of the LaBree Family Trust, and that because of her medical condition, Mrs. LaBree was extremely susceptible to undue influence; that action seeks a variety of remedies, including rescission of the agreement and damages;
- **The proximity in time for when the interest rates for the promissory notes relating to this [Frank H. LaBree Irrevocable] trust were modified and when the agreement that is the subject of the above-noted civil action in Riverside Superior Court was signed occurred within just a few months of each other and are relatively close in time [emphasis added];**
- It is expected that the attorneys for the parties will meet and confer after the discovery propounded by Objector in this particular matter is responded to in order to determine whether the matter can be resolved by agreement, or whether the issue as to whether the Trustee engaged in impermissible self-dealing will have to be decided by the Court.

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust Dated March 26, 1992 [Cal. Prob. C. 1064(a), 17200, 17200(b)(5), CRC., Rule 7.902]

Frank DOD: 8/15/2006		BARBARA L. PEARSON , Trustor's daughter, Trust Beneficiary and Successor Trustee of the FRANK H. LABREE IRREVOCABLE TRUST , is Petitioner. Account period: 10/10/2008 – 12/31/2011 Accounting - \$456,694.10 Beginning POH - \$421,894.79 Ending POH - \$423,435.60 (\$334,115.35 is cash) Trustee (Initial) - \$3,510.00 <i>(services prior to 10/10/2008 for initial Trustee, paid to Law Offices of Earl O. Bender)</i> Trustee (Current) - \$600.00 (paid) Trustee Costs - \$1,379.84 (paid) <i>(reimbursement of 2010 travel expense)</i> Attorney - Not requested Accountant - \$615.00 (paid) <i>(to Erickson & Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson & Assoc.)</i> Petitioner states: <ul style="list-style-type: none"> FRANK H. LABREE, Jr., created the FRANK H. LABREE IRREVOCABLE TRUST on 3/26/1992, which was funded initially by a life insurance policy on Frank (copy of Trust Agreement attached as Exhibit A); The initial Trustee was EARL O. BENDER, who resigned on 10/9/2008, and Petitioner succeeded as trustee; Petitioner is a resident of Auberry, California; 	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 1/18/2013.</u> Minute Order states Mr. Werner is appearing via conference call. 2. Need proposed order.	
Roberta DOD: 3/25/2012				
Cont. from 112912, 011813				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
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	Aff.Pub.			
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	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
✓	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	X		
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

~Please see additional page~

Petitioner states, continued:

- Pursuant to probate Code § 17200, the Trustee is requesting Court review of the first account and of the acts of the Trustee, and submits her first account and report of administration of the Trust for settlement and allowance;
- On 1/30/2009, Trustee loaned herself and her husband, **PAUL E. PEARSON**, the sum of **\$95,000.00** per a written promissory note dated 1/30/2009 at 6% per annum interest with monthly payments of **\$860.00**, and such note is secured by a manufactured home located in Auberry, California; the note was modified on 12/1/2010 to reduce the annual interest to 4%, with all other terms remaining the same; at all times and during the account period, the note remained current and all payments are reflected in the account; the note was subsequently paid in full as will be reflected in the next account; the loan was done with the consent of Roberta LaBree who was the surviving spouse of the Trustor and was the primary beneficiary of the Irrevocable Trust at that time;
- On 9/10/2009, Trustee made an unsecured loan to **SHANNON BADELLA** and **ANTHONY BADELLA**, Trustee's daughter and her husband, in the sum of **\$14,300.00**; the loan was evidenced by a written promissory note at 6% per annum interest with monthly payments of **\$400.00**, commencing 11/1/2009; the note was modified on 12/1/2010 to reduce the interest rate to 4% per annum with all other terms remaining the same; on 3/24/2011, Petitioner assumed the obligation and payment of the note, which at that time had a balance of **\$9,317.97**; at all times and during the account period, the note remained current and all payments are reflected in the account; the loan was done with the consent of Roberta LaBree, who was the surviving spouse of the Trustor and was the primary beneficiary of the Irrevocable Trust at that time;
- The current and "Present Beneficiaries" of the Trust are Barbara L. Pearson (of Auberry), Roxanne McWilliams (of West Hills), and Tracy I. Spier (of Temecula); each Present Beneficiary has an unrestricted right to "withdraw from principal the entire balance of her trust at any time" pursuant to Subsection 5.02(b)(c) of the Trust, thus Probate Code §§ 15802 and 15803 apply and the Present Beneficiaries' rights to withdraw limit the Trustee's duty to notify any future beneficiaries.

Petitioner prays for an Order:

5. Settling and allowing the First Account and Report of the Trustee;
6. Ratifying, confirming and approving all acts and transactions of the Petitioner as Trustee relating to matters set forth in the First Account; and
7. Ratifying and approving the Trustee's fees already paid as set forth in the First Account.

Objection to Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust dated 3/26/1992; Request for Attorneys' Fees filed 11/16/2012 by TRACY SPREIER, Trustor's daughter and Trust Beneficiary, states she objects to the account filed by Barbara Person on the following grounds:

- The Court should not approve the Successor Trustee's acts of unilaterally reducing the interest rate of the loans that she made from the Trust's funds to herself and her daughter, without any evidence of the reasonableness and justification of such self-dealing.
- The Court should not approve the Successor Trustee's unusual travel expenses without evidence of the reasonableness of such charges to the Trust.
- The Account and Report fails to explain the reason for the unusual omission of any payment to the Successor Trustee for her fees for 2010 and 2011, and it is unknown whether those fees are waived or if the Successor Trustee was compensated in some other way.

~Please see additional page~

Reply to Objections to Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust dated 3/26/1992 filed 11/26/2012 by Barbara Pearson, Trustee, states:

- The Objection is somewhat economically bewildering because the objection questions actions by the Trustee which benefitted the Trustee or her daughter a total of **\$5,170.12**, and if successful in her objection, Objector stands to gain at most **\$1,723.37** based on her 1/3 share.
- Petitioner's counsel was never contacted to see if Objector's questions could be adequately addressed, or the issues perhaps settled on an informal basis; Petitioner wonders why Objector's counsel did not simply call to discuss Objector's concerns with this accounting.
- In her service as Trustee for the three+ years presented in the accounting, Petitioner's benefit of **\$5,170.12** would be well within a reasonable Trustee fee for her service given her active involvement with investment decisions and her assistance with preparation of the Trust's tax returns each year.
- The reduction of the interest rate from 6% to 4% was consented to by a life-time beneficiary of the Trust, and was economically reasonable.
- The Successor Trustee's travel expenses for **\$1,379.84** were reasonably related to the administration of the Trust.
- The Trustee is not requesting Trustee fees for 2010 or 2011.
- The Court should deny Objector's request for attorney fees for the Objection.

DOD: 6-5-09		FRESNO COUNTY PUBLIC ADMINISTRATOR was appointed Administrator with Full IAEA without bond on 10-18-12 and Letters issued on 10-26-12.	NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR</u> Petition for final distribution of insolvent estate filed 3-5-13 is set for hearing on 4-16-13
Cont from 110912, 011113			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
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Sp.Ntc.			
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Conf. Screen			
✓ Letters	10-26-12		
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
✓ Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: skc	
		Reviewed on: 3-13-13	
		Updates:	
		Recommendation:	
		File 15 - Bucci	

Status Hearing Re: Property and all Outstanding Matters

DOD: 7/2/2010		<p>DAVID D. GRABER, Son and Executor with Full IAEA with bond of \$564,000.00, petitioned the court to purchase the estate's real property for \$275,000.00.</p> <p>On 6/28/12 the court confirmed the sale and set this status hearing regarding the property.</p> <p>Status Report of Attorney Richard Hemb filed on 2/13/13 states the remaining administrative activities involve the disposition of the real property. The Decedent's real property in Madera was appraised at the date of death at \$80,000.00. The asking price was reduced to \$60,000.00. No activity presented itself at that level. As reported at the last status conference, the real estate broker noticed activity for similar property at a selling price of \$25,000.00. Since the last status conference the personal representative lowered the asking price to \$25,000.</p> <p>By Order Confirming Sale of Real Property issued on 6/28/2012, the court approved the sale of the Decedent's Fresno property to the Personal Representative. Closing of the sale has been accomplished.</p> <p>The only remaining asset in the estate is the Madera property. Because the personal representative has not received any offers even at the significantly reduced selling price, the personal representative plans to ask this court to allow the estate to be closed with an order to distribute the title to the real property equally to the beneficiaries.</p> <p>A final accounting is in progress and should be filed with the court very soon.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need current written status report pursuant to Local Rule 7.5 which states in all matter set for Status Hearing verified Status Reports must be filed no later than ten (10) days before the hearing and shall be served on all interested parties.</p>
Cont. from 083112, 101912, 021513			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
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<input type="checkbox"/>	Notice of Hrg		
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<input type="checkbox"/>	Aff.Pub.		
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<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
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<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Reviewed by: KT
Reviewed on: 3/14/13
Updates:
Recommendation:
File 16 - Graber

DOD: 7-29-10		<p>FRANK HINE, Brother, was originally appointed Administrator with Full IAEA with bond of \$118,260.00 on 1-5-11.</p> <p>On 2-23-12, Attorney Jeff Reich filed a motion to be relieved as counsel. At hearing on 4-4-12, a Substitution of Attorney was filed and the Court noted for the record that Attorney Krbechek is now attorney of record.</p> <p>I&A filed 6-6-12 indicates a total estate value of \$134,550 including real property and various vehicles and personal property items.</p> <p>On 6-15-12, the Court decreased the bond amount to \$45,000.00 and reduced Administrator's authority under the IAEA to limited authority requiring confirmation of sale.</p> <p>Letters issued on 10-24-12.</p> <p>On 10-24-12, The Court set this status hearing for filing of the I&A, and also set a status hearing for 6-21-13 for filing of the first account or petition for final distribution. Notice was mailed to Attorney Krbechek on 10-24-12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> <i>It appears that the I&A was previously filed on 6-6-12 (prior to the setting of this date).</i></p> <p><u>However,</u> <i>Examiner did not take this hearing off calendar because it appears that although only <u>limited</u> authority was authorized by the Court upon the reduction of the bond on 6-15-12, the Letters submitted and issued on 10-24-12 indicate <u>full</u> authority. The Court may wish to address this discrepancy at this time and may require revised Letters.</i></p>
Aff.Sub.Wit.			
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Inventory			
PTC			
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Notice of Hrg			
Aff.Mail			
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Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCC/JEA			
Citation			
FTB Notice			
		Reviewed by: skc	
		Reviewed on: 3-14-13	
		Updates:	
		Recommendation:	
		File 17 - Hine	

18 Debra Kay Hawkins (Estate)
Atty Kruthers, Heather (for Public Administrator)
Atty Hawkins, Randy (Pro Per Former Administrator)

Case No. 11CEPR00513

Status Hearing Re: Filing of the First Account or Petition for Final Distribution

DOD: 01/07/11	RANDY HAWKINS , Son, was appointed Administrator with Full IAEA without bond on 10-24-11.	NEEDS/PROBLEMS/COMMENTS:
Cont. from 102912, 111612, 011113	On 10-24-11, the Court set a status hearing for filing of the First Account and Petition for Final Distribution on 10/29/12.	<u>OFF CALENDAR</u> Petition for final distribution of insolvent estate filed 2-15-13 is set for hearing on 3-27-13.
Aff.Sub.Wit.		
Verified	On 11-16-12, after numerous status hearings, Mr. Hawkins did not appear, and the Court removed Mr. Hawkins and appointed the FRESNO COUNTY PUBLIC ADMINISTRATOR .	
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		Reviewed by: skc
Status Rpt		Reviewed on: 3-13-13
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 18 - Hawkins

Status Hearing Re: Filing of the Inventory and Appraisal

Age:			NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED TO 6-7-12</u> Per Examiner
DOD:			
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
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	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc Reviewed on: 3-14-13 Updates: Recommendation: File 19 - Smith

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq.)

DOD: 7/25/2011		<p>DAVID DAVIS, son, was appointed Administrator with full IAEA authority and without bond on 1/11/2012.</p> <p>Inventory and appraisal shows an estate valued at \$325,344.45 (of which \$291,344.45 was cash)</p> <p>Creditor's Claims filed as follows:</p> <table> <tr> <td>Franchise Tax Board -</td> <td>\$ 9,769.87</td> </tr> <tr> <td>American Express -</td> <td>\$ 6,892.33</td> </tr> <tr> <td>American Express -</td> <td>\$ 999.45</td> </tr> <tr> <td>DMC Services -</td> <td>\$ 352.56</td> </tr> <tr> <td>DMC Services -</td> <td>\$ 604.60</td> </tr> <tr> <td>GE Capital Bank -</td> <td>\$ 300.84</td> </tr> <tr> <td>CitiBank -</td> <td>\$ 7,071.24</td> </tr> <tr> <td>Bank of America -</td> <td>\$ 877.11</td> </tr> <tr> <td>Total</td> <td>\$26,868.00</td> </tr> </table> <p>Notice of Status Hearing was mailed to Attorney Gary Motsenbocker and Administrator David Davis on 11/15/13.</p> <p>Administrator, David Davis, was formerly represented by Gary Motsenbocker. Mr. Motsebocker filed a Motion to be Relieved as Counsel on 11/7/12. Stating he had difficulties communicating with the Administrator. The Administrator was refusing to provide information requested by counsel necessary to bring the matter to a conclusion. On 1/2/13 and order was signed granting Mr. Motsenbockers Motion to be Relieved as Counsel.</p> <p>Minute Order dated 1/2/13 ordered David Davis to be personally present at the status hearing on 3/22/13.</p> <p>A copy of the Minute Order was mailed to David Davis on 1/8/13.</p>	Franchise Tax Board -	\$ 9,769.87	American Express -	\$ 6,892.33	American Express -	\$ 999.45	DMC Services -	\$ 352.56	DMC Services -	\$ 604.60	GE Capital Bank -	\$ 300.84	CitiBank -	\$ 7,071.24	Bank of America -	\$ 877.11	Total	\$26,868.00	<p>NEEDS/PROBLEMS/COMMENTS:</p>
Franchise Tax Board -	\$ 9,769.87																				
American Express -	\$ 6,892.33																				
American Express -	\$ 999.45																				
DMC Services -	\$ 352.56																				
DMC Services -	\$ 604.60																				
GE Capital Bank -	\$ 300.84																				
CitiBank -	\$ 7,071.24																				
Bank of America -	\$ 877.11																				
Total	\$26,868.00																				
Cont. from																					
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		<p>Reviewed by: KT</p> <p>Reviewed on: 3/22/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 20 - Davis</p>																			

21 James L. Rutherford (Estate)

Atty Keeler, William J.

Atty LeVan, Nancy J.

Case No. 12CEPR00016

Status Hearing Re: Receipt of Signed Settlement Agreement

Age:		NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR</u> Order Granting Petition for Approval of Settlement Agreement was filed 3-12-13.
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		Reviewed on:
		Updates:
		Recommendation:
		File 21 - Rutherford

Status Hearing Re: Settlement Agreement

DOD: 3/5/11		<p>MINDY CASTILLO, daughter, filed a Petition to Determine Succession requesting Court determination that decedent's 100% interest in real property located at 760 E. Valley Street in Coalinga, 50% interest in real property located at 360 E. Houston Street in Coalinga, 100% interest in a 2005 Chevy pick-up and a 1992 Chevy pick-up and an investment account pass to her pursuant to intestate succession.</p> <p>Carol Ackerman filed objections to the Petition alleging she has filed a Petition under Probate Code §850 (see page 19 of this calendar), seeking to have the court determine that the Decedent was holding title to the real property located at 360 E. Houston in Coalinga as a constructive trustee for the objecting party.</p> <p>Minute Order from the settlement conference dated 11/16/12 states the court is informed that a resolution has been reached in case #12CEPR00631 as fully set forth by Mr. Gin. Parties also agree to dismiss case no. 12CEPR00808 with prejudice upon the entry of the order in this case. Upon inquiry by the Court, each party individually agrees to the terms and conditions of the settlement. Counsel is directed to prepare necessary documents. Matter set for status hearing on 1/4/13, if all the necessary documents are filed by 1/4/13, no appearance will be necessary.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Related case on page 25</p> <p>Continued from 2/8/13. Minute Order states Mr. Stott informs the court that he has the stipulation however it has not been signed by the parties. As of 3/14/13 the following issues remain:</p> <ol style="list-style-type: none"> 1. An Order Determining Succession to the real property located at 760 E. Valley Street has been signed. The issue of the property located at 360 E. Houston was reserved. Petitioner has submitted a proposed order which would pass the decedent's ½ interest in the real property located at 360 E. Houston to Mindy Castillo subject to a life estate in favor of Carol Ackerman. The order further states that upon the death of Carol Ackerman the property shall be sold and the net proceed distributed equally to Mindy Castillo and Sara Lynn Orozco (it is unclear if this is just as to the decedent's ½ interest in the real property or if it is for 100% of the property). This court has no authority make any orders regarding the ½ interest in the property that is not subject to these proceedings. 2. Minute order states that an agreement was reached. Need stipulation signed by all parties to the agreement.
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		<p>Reviewed by: KT</p> <p>Reviewed on: 3/14/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 24 - Castillo</p>	

Status Hearing Re: Settlement Agreement

DOD: 3/5/11		<p>CAROL ACKERMAN filed an Petition under Probate Code §850 alleging the right and title to the real property located at 360 E. Houston Street in Coalinga, CA.</p> <p>Petitioner's claims were based upon the fact that Petitioner, acting under erroneous information, believed that she would lose her Medicare eligibility because she owned property located at 360 E. Houston. As a result of this misinformation, Petitioner executed a deed for the property transferring title to Sara Lynn Orozco and to the decedent.</p> <p>Petitioner alleged had known the truth, that she would have still been eligible for Medicare benefits while retaining title to the property, she never would have transferred the property to Sara Lynn Orozco and the decedent.</p> <p>Minute order from the settlement conference held on 11/16/12 states the court is informed that a resolution has been reached in case no. 12CEPR00631 (page 17 of this calendar) ad fully set forth by Mr. Gin. Parties also agree to dismiss the petition in this case with prejudice upon the entry of the order in case no. 12CEPR00631 (page 17). Upon inquiry by the Court, each party individually agrees to the terms and conditions of the settlement. Counsel is directed to prepare the necessary documents. Matter set for Status Hearing on 1/4/13. If all necessary documents are filed by 1/4/13, no appearance will be necessary.</p> <p>Minute order dated 2/8/13 states Mr. Stott informs the Court that he has the stipulation however it has not been signed by the parties.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 2/8/13.</p> <p>Related case on page 24 of this calendar.</p>
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		<p>Reviewed by: KT</p> <p>Reviewed on: 3/14/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 25 – Castillo</p>	